IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1684 OF 2007

Shahbaz Nazir Kungle. ...Applicant.

Versus

The State of Maharashtra ...Respondent.

....

Mr.M.S.Kadu, Adv. for the Applicant.
Mr.V.B.Konde-Deshmukh, APP, for the State.

....

CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : 11th June, 2007.

P.C.:

1. Heard the learned Advocate for the Applicant and the learned APP for the State.

2. The applicant is seeking anticipatory bail in C.R.No.I-79 of 2007 of Kalyan Taluka Police Station. The said case is mainly under Section 307 of IPC.

3. There was dispute relating to compensation received from Reliance Company by the complainant in respect of gas-pipeline. The applicant alongwith three others approached the complainant who is uncle of the applicant and demanded the

cheque from him. The complainant stated that he cannot hand over the cheque as it is a joint-cheque. On account of this, the applicant and others who are relatives of the applicant started abusing and assaulting the complainant with fist blows on his chest and ribs. At that time one of the coaccused pressed his boot clad foot on the stomach of the complainant. On account of this the spleen of the complainant was ruptured and he had to be operated.

4. Mr.Kadu, the learned Advocate for the applicant submitted that the main role is played by original accused No.1 Mohammed and not by the present applicant. However, the FIR which is lodged by the complainant clearly shows the name of the applicant and the fact that the applicant along with other accused persons abused and assaulted him. Many other eye witnesses have also implicated the present applicant.

5. In my view, the material collected by the prosecution in the present case is such as to point out an accusing finger towards the present applicant. The Apex Court has observed in the

decision of **Directorate of Enforcement Vs. P.V.Prabhakar Rao,** reported in **1997 SCC (Cri.) 978** that when the material gathered by the prosecution is such as to point out an accusing finger towards the accused, it is not a fit case to grant anticipatory bail. Hence, application is rejected.

(SMT.V.K.TAHILRAMANI,J.)